IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL WRIT PETITION NO.1537 OF 2004

Shri Arun Damodar Khade, .. Petitioner

Vs

1. The State of Maharashtra

and ors. .. Respondents

Mrs Smita Gawai-Kadu, for the petitioner.

Mr A.S.Gadkari, APP for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : 24th AUGUST, 2004.

PC:

1. Heard the learned counsel for the parties.

2. This writ petition is directed against the order dated 19.5.2004 passed by respondent no.3, rejecting the petitioner's application seeking furlough leave. The application dated 10.10.2003 was rejected on two grounds; Firstly, that on the earlier occasion, the petitioner had overstayed and secondly, there was adverse report against the petitioner. In so far as the first ground is concerned, Mr Gadkari, learned APP, on instructions, states that since the petitioner was punished for his overstay, on that ground the competent authority shall not reject his application any more. In so far as the second ground is concerned, he states that

the persons, whose names were suggested by the petitioner to stand as surety, were not prepared to take his responsibility. In view of this, Mr Gadkari, on instructions, further submits that if the petitioner gives names of persons to stand as surety, the competent authority shall consider his request for furlough leave afresh subject to compliance of all the formalities in accordance with law. In view of this, Ms Kadu, learned counsel for the petitioner, submits that the petitioner is prepared to furnish surety to the satisfaction of the competent authority. The statements of the learned counsel for the parties are accepted. The competent authority shall not reject his application dated 10.10.2003 seeking furlough leave on the ground of his earlier overstay in view of the fact that he was punished earlier by the jail authorities. If the petitioner furnishes fresh surety, same may be considered in accordance with law. In view of this, the order dated 19.4.2004 renders ineffective. The writ petition is disposed of.

. An authenticated copy of this order may be made available to the parties.

(D.B.BHOSALE, J.)